

105th Congress, 1st Session - - - - - House Document 105-77

CONVENTION ON THE PROHIBITION OF THE DEVELOP-
MENT, PRODUCTION, STOCKPILING AND USE OF
CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

CERTIFICATION WITH RESPECT TO THE RESOLUTION OF ADVICE
AND CONSENT TO RATIFICATION OF THE CONVENTION ON THE
PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCK-
PILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DE-
STRUCTION, ADOPTED BY THE SENATE OF THE UNITED STATES
ON APRIL 24, 1997



APRIL 28, 1997.—Message and accompanying papers referred to the
Committee on International Relations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

39-011

WASHINGTON : 1997

To the Congress of the United States:

In accordance with the resolution of advice and consent to ratification of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, adopted by the Senate of the United States on April 24, 1997, I hereby certify that:

In connection with Condition (1), Effect of Article XXII, the United States has informed all other States Parties to the Convention that the Senate reserves the right, pursuant to the Constitution of the United States, to give its advice and consent to ratification of the Convention subject to reservations, notwithstanding Article XXII of the Convention.

In connection with Condition (7), Continuing vitality of the Australia Group and National Export Controls: (i) nothing in the Convention obligates the United States to accept any modification, change in scope, or weakening of its national export controls; (ii) the United States understands that the maintenance of national restrictions on trade in chemicals and chemical production technology is fully compatible with the provisions of the Convention, including Article XI(2), and solely within the sovereign jurisdiction of the United States; (iii) the Convention preserves the right of State Parties, unilaterally or collectively, to maintain or impose export controls on chemicals and related chemical production technology for foreign policy or national security reasons, notwithstanding Article XI(2); and (iv) each Australia Group member, at the highest diplomatic levels, has officially communicated to the United States Government its understanding and agreement that export control and nonproliferation measures which the Australia Group has undertaken are fully compatible with the provisions of the Convention, including Article XI(2), and its commitment to maintain in the future such export controls and nonproliferation measures against non-Australia Group members.

In connection with Condition (9), Protection of Advanced Biotechnology, the legitimate commercial activities and interests of chemical, biotechnology, and pharmaceutical firms in the United States are not being significantly harmed by the limitations of the Convention on access to, and production of, those chemicals and toxins listed in Schedule 1 of the Annex on chemicals.

In connection with Condition (15), Assistance Under Article X, the United States shall not provide assistance under paragraph 7(a) of Article X, and, for any State Party the government of which is not eligible for assistance under chapter 2 of part II (relating to military assistance) or chapter 4 of part II (relating to economic support assistance) of the Foreign Assistance Act of 1961: (i) no assistance under paragraph 7(b) of Article X will be provided to the State Party; and (ii) no assistance under paragraph 7(c) of Article

X other than medical antidotes and treatment will be provided to the State Party.

In connection with Condition (18), Laboratory Sample Analysis, no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

In connection with Condition (26), Riot Control Agents, the United States is not restricted by the Convention in its use of riot control agents, including the use against combatants who are parties to a conflict, in any of the following cases: (i) the conduct of peacetime military operations within an area of ongoing armed conflict when the United States is not a party to the conflict (such as recent use of the United States Armed Forces in Somalia, Bosnia, and Rwanda); (ii) consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter; and (iii) peacekeeping operations when force is authorized by the Security Council under Chapter VII of the United Nations Charter.

In connection with Condition (27), Chemical Weapons Destruction, all the following conditions are satisfied: (A) I have agreed to explore alternative technologies for the destruction of the United States stockpile of chemical weapons in order to ensure that the United States has the safest, most effective and environmentally sound plans and programs for meeting its obligations under the convention for the destruction of chemical weapons; (B) the requirement in section 1412 of Public Law 99-145 (50 U.S.C. 1521) for completion of the destruction of the United States stockpile of chemical weapons by December 31, 2004, will be superseded upon the date the Convention enters into force with respect to the United States by the deadline required by the Convention of April 29, 2007; (C) the requirement in Article III(1)(a)(v) of the Convention for a declaration by each State Party not later than 30 days after the date the Convention enters into force with respect to that Party, on general plans of the State Party for destruction of its chemical weapons does not preclude in any way the United States from deciding in the future to employ a technology for the destruction of chemical weapons different than that declared under that Article; and (D) I will consult with the Congress on whether to submit a request to the Executive Council of the Organization for an extension of the deadline for the destruction of chemical weapons under the Convention, as provided under Part IV(A) of the Annex on Implementation and Verification to the Convention, if, as a result of the program of alternative technologies for the destruction of chemical munitions carried out under section 8065 of the Department of Defense Appropriations Act of 1997 (as contained in Public Law 104-208), I determine that alternatives to the incineration of chemical weapons are available that are safer and more environmentally sound but whose use would preclude the United States from meeting the deadlines of the Convention.

In connection with Condition (28), Constitutional Protection Against Unreasonable Search and Seizure: (i) for any challenge inspection conducted on the territory of the United States pursuant to Article IX, where consent has been withheld, the United States National Authority will first obtain a criminal search warrant

based upon probable cause, supported by oath or affirmation, and describing with particularity the place to be searched and the persons or things to be seized; and (ii) for any routine inspection of a declared facility under the Convention that is conducted on an involuntary basis on the territory of the United States, the United States National Authority first will obtain an administrative search warrant from a United States magistrate judge.

In accordance with Condition (26) on Riot Control Agents, I have certified that the United States is not restricted by the Convention in its use of riot control agents in various peacetime and peacekeeping operations. These are situations in which the United States is not engaged in a use of force of a scope, duration and intensity that would trigger the laws of war with respect to U.S. forces.

In connection with Condition (4)(A), Cost Sharing Arrangements, which calls for a report identifying all cost-sharing arrangements with the Organization, I hereby report that because the Organization is not yet established and will not be until after entry into force of the Convention, as of this date there are no cost-sharing arrangements between the United States and the Organization to identify. However, we will be working with the Organization upon its establishment to develop such arrangements with it and will provide additional information to the Congress in the annual reports contemplated by this Condition.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *April 25, 1997.*